



# Virginia Department of Corrections

## Records and Information Management

### Operating Procedure 050.6

### *Offender Access to Record Information*

#### **Authority:**

Directive 050, *Offender Records Management*

**Effective Date:** May 1, 2020

**Amended:** 10/1/20 11/1/22

#### **Supersedes:**

Operating Procedure 050.6, September 1, 2018

**Access:** ☒ Public ☐ Restricted

☒ Incarcerated Offender

#### **ACA/PREA Standards:**

5-ACI-1E-04; 4-4098; 4-ACRS-7D-11; 2-CO-1E-06

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|-----------------------|--|-------------------------------|---------|
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|                       |  | Signature                     | Date    |

## REVIEW

The Content Owner will review this operating procedure annually and re-write it no later than three years after the effective date.

*The content owner reviewed this operating procedure in May 2021 and determined that no changes are needed*

*The content owner reviewed this operating procedure in May 2022 and necessary changes are being drafted.*

## COMPLIANCE

This operating procedure applies to all units operated by the Virginia Department of Corrections. Practices and procedures must comply with applicable State and Federal laws and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.

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## DEFINITIONS

**Alcohol and Drug Abuse Information** - Information regarding the identification, diagnosis, prognosis, or treatment of an offender relative to participation in an alcohol or drug program

**Amendment** - The formal process of altering, modifying, or subtracting from a document or record; VACORIS maintains a historical record of all actions related to an offender's incarceration and may be amended to correct erroneous information.

**Case File** - A confidential computer record maintained in VACORIS, ICOTS, and/or written record maintained in a P&P Office or Community Corrections Facility regarding the offender that includes documentation of all action that has occurred in the case

**Community Corrections Facility** - A residential facility operated by the Department of Corrections to provide Community Corrections Alternative Programs

**Correctional Status Information** - Records and data concerning each condition of a convicted person's custodial status, including probation, confinement, study release, work release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision; reference COV §9.1-101, *Definitions*

**Criminal History Record Information** - Records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal charges, and any disposition arising there from; the term will not include juvenile record information that is controlled by COV §16.1-226 et seq., *Juvenile and Domestic Relations District Court Law*, criminal justice intelligence information, criminal justice investigative information, or correctional status information; reference COV §9.1-101, *Definitions*

**Criminal Justice Agency** - A Court or government agency, or any sub-unit thereof, that performs the administration of criminal justice pursuant to a statute or Executive Order, as defined in COV §9.1-101, *Definitions*

**Facility** - Any institution or Community Corrections facility

**Facility Folder** - A two-part folder established at reception for each new offender received into the DOC on or after August 1, 2015, for the storage of the Property Envelope and facility specific information not uploaded to VACORIS

**Health Record** - A file that contains information relative to the offender's medical, dental, and mental health condition, and treatment; the Health Record is maintained at the offender's facility of assignment and follows the offender throughout the term of incarceration.

**Historical Hardcopy Record** - The original offender criminal record, established at reception for each offender in an institution prior to August 1, 2015, containing all original incarceration documents

**ICOTS** - The Interstate Compact Offender Tracking System (ICOTS) is the web-based system used by all states and U.S. Territories to transfer and monitor the supervision of offenders while under Interstate Compact for Adult Offender Supervision.

**Indigent Offender** - An offender with less than \$5.00 in their offender account for discretionary spending during the previous month and has no job or other source of income that provided as much as \$5.00 during the previous month or an offender who is newly received into a facility and does not have available funds nor hygiene items

**Institution** - A prison facility operated by the Department of Corrections; includes major institutions, field units, and work centers

**Mental Health Information** - Any information relative to the offender's mental health status or treatment, including that part of the offender's Health Record that deals primarily with mental health issues

**Offender Notification Information** - Records, reports, and notices that are generated specifically for the information and receipt of an offender, regarding a specific matter involving the offender, including, but not limited to, responses to offender grievances, classification actions, disciplinary reports, and legal update sheets

**Official Offender Record** - All offender-specific information maintained by the Department of Corrections; the official record may include the Historical Hardcopy Record and Facility Folder (institutions), case files (Probation and Parole Offices and Community Corrections facilities), offender Health Records, and all offender-specific

computerized records maintained in VACORIS and ICOTS

**Post Sentence Report (PSR)** - An abbreviated form of the Pre-Sentence Investigation report that may be completed when the court does not order a PSI; the PSR must be handled and disseminated under the same restrictions as a PSI.

**Power of Attorney (POA)** - A written document that authorizes one person to act on behalf of another; see COV §64.2-1600 et seq. *Virginia Uniform Power of Attorney Act*.

**Pre-Sentence Investigation (PSI)** - A special individual background investigation and report prepared by P&P Officers for the Courts and Parole Board; the PSI is sealed upon final order by the Court and may be made available only by court order except that the Court or Department of Corrections may make a copy available to criminal justice agencies or agencies where the offender is referred for treatment or supervision; reference COV §19.2-299, *Investigations and reports by probation officers in certain cases*.

**VACORIS** - The computer-based Virginia Department of Corrections offender information management system

## PURPOSE

This operating procedure provides information to offenders on how they may access information contained in their Department of Corrections records for their own use and for individuals or agencies providing legal assistance, health care, or other services to the offender.

## PROCEDURE

### I. Privacy and Confidentiality of Offender Record Information

- A. Information pertaining to the records, offenses, personal history, and private affairs of offenders is for official use only.
- B. The *Virginia Freedom of Information Act*, COV §2.2-3706 (B)(4), *Disclosure of law-enforcement and criminal records; limitations*, exempts “all records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment.” It is the policy of the DOC that all offender record information is exempt and considered to be confidential, and therefore, is not releasable, except as specified in this operating procedure, Operating Procedure 025.1, *Public Access to DOC Public Records*, Operating Procedure 050.1, *Offender Records Management*, (not accessible to incarcerated offenders), or as authorized by the Director or designee.
- C. COV §2.2-3706 (B)(6), “*Disclosure of law-enforcement and criminal records; limitations*” exempts from mandatory disclosure “all records of adult persons under ... investigation or supervision by state probation and parole services.
- D. The confidentiality of offender medical, dental, mental health, and substance abuse records and information is further governed and restricted by relevant state and federal laws and regulations.
- E. Other than as provided in this operating procedure, an offender will have no access to the official record of their incarceration. (5-ACI-1E-04; 4-4098, 4-ACRS-7D-11, 2-CO-1E-06)
- F. Under no circumstances are offenders to handle or have access to information contained in another offender's active record, including but not limited to criminal, classification, medical, mental health, educational, counseling, disciplinary or grievance records, personal information such as the names and addresses of visitors, phone lists, offender account and spend sheet information, or any other records relating to an offender's imprisonment.
- G. Certain offenders may be approved to handle archived records for scanning to electronic storage; however, under no circumstances are offenders to handle or have access to the Social Security account number of other individuals pursuant to 42 U.S.C. §405 (c)(2)(C), *Social Security Number Protection Act of 2010*.

### II. Record Information Dissemination and Release Process

- A. The Director of Offender Management Services, Chief of Corrections Operations, Regional Operations Chief, Regional Administrator, and Facility Unit Head, or their designees, have the authority to disseminate offender record information:
  - 1. Upon receipt of a written request
  - 2. In accordance with this operating procedure and Operating Procedure 050.1, *Offender Records Management*
  - 3. With offender consent if applicable
  - 4. After advising the requester of applicable charges in the copying of records
  - 5. With the original request and copy of the response maintained by the DOC Organizational Unit releasing the information
  - 6. The DOC does not release criminal records information for employment or background checks.
- B. COV §2.2-3700 et seq., *Virginia Freedom of Information Act*, does not apply to offenders because COV

§2.2-3703 (C), *Public bodies and records to which chapter inapplicable; voter registration and election records; access by persons incarcerated in a state, local, or federal correctional facility*, explicitly excludes offenders incarcerated in a state, local, or federal correctional facility.

C. Access to Official Record Information (5-ACI-1E-04; 4-4098, 4-ACRS-7D-11, 2-CO-1E-06)

1. Copies of certain documents will be provided to offenders if they request them and pay for them in advance:
  - a. Offender notification information as specified in this operating procedure
  - b. Medical, dental, and mental health records in accordance with this operating procedure and Operating Procedure 701.3, *Health Records*
  - c. Offender orientation materials
2. Notification Information will be provided to the inmate and CCAP probationer/parolee in accordance with applicable procedures.
  - a. To receive an additional copy of Offender Notification Information after receipt of the initial copy, the offender must submit a request for the documents and pay applicable copying charges in advance.
    - i. Indigent offenders will be provided the requested copies with the cost of such copies debited against the offender's stipend.
    - ii. Each indigent offender is authorized a maximum stipend of \$50.00 each year for copies of offender notification information; unused funds will not be carried over to the following year.
    - iii. Any offender who exceeds the \$50.00 stipend during the year for such copies will not receive additional copies of offender notification information without written approval of the Facility Unit Head or designee.
    - iv. When the stipend is in excess of \$50.00 and the Facility Unit Head or designee does not approve the offender for additional copies, further copies will not be provided until the offender presents a court order instructing the facility to provide additional funds for such copies.
  - b. If an offender wishes to provide Offender Notification Information to a third party, the offender must request the copies and forward them to the third party.
  - c. When an individual or third party claims power of attorney over an inmate or a probationer/parolee, the requester must provide a photocopy of the Power of Attorney and an original notarized request stating the information the Power of Attorney is seeking to obtain. Each Power of Attorney and original notarized request received by a facility or Organizational Unit will be reviewed on a case by case basis for its applicability, validity, and scope in accordance with the COV §64.2-1600 et seq., *Virginia Uniform Power of Attorney Act*.
3. Offender record information not related to their incarceration (e.g., education, career and technical education, work experience, and programming completions) may be released to another person, agency, or organization only upon receipt of a properly completed and signed *Consent for Release of Information* 050\_F14, and payment of applicable copying charges. A copy of the signed *Consent for Release of Information* must be uploaded in VACORIS as an external document.
4. If an offender is no longer incarcerated in a DOC facility, the request for offender records information must be notarized; see *Request for Records (Inactive Offender Only)* 050\_F17.
5. Parole Board Information
  - a. Parole decision letters are offender notification information and may be disclosed as noted above.
  - b. Other Parole Board documents may be released only by the Parole Board. Any request for such documents should be submitted to the Parole Board in writing.
6. Offenders do not have a right to review their P&P or Community Correction Facility Case File except for those misdemeanor offenses that are not reportable to the State Police; however, there may be mitigating circumstances where the P&P Officer determines there is a need to show the offender their criminal investigative information or criminal history. Good judgment tempered with supervisor guidance is suggested whenever a P&P Officer is considering such an action.

**D. Release of Criminal History Record Information:**

1. Criminal History Record Information must not be released from DOC records to offenders or their representatives.
2. An offender may request a copy of his own Criminal History Record Information, pursuant to COV §19.2-389 (A)(11), *Dissemination of criminal history record information*, by writing to the Virginia State Police, Central Criminal Records Exchange (CCRE) for criminal history record information which is required to be reported to the CCRE or to the criminal justice agency required to maintain the record if such information is not required to be reported to the CCRE; reference COV §19.2-389, D.
3. Offender requests for a copy of their own Criminal History Record Information must be made to their local State Police Office or by writing directly to:

Department of State Police  
Central Criminal Records Exchange  
P. O. Box 27472  
Richmond, VA 23261-7472

4. The DOC may release Criminal History Record Information to criminal justice agencies and other agencies or entities as authorized by the Code of Virginia, in accordance with Operating Procedure 050.1, *Offender Records Management*.

**E. Alcohol and Drug Abuse Record Information (Reference 42CFR2) may be released:**

1. To the offender only upon receipt of a *Consent for Release of Alcohol and Drug Abuse Record Information* 050\_F15, or a *Consent for Release of Information (PPS 20)* 920\_F8 signed by the offender
2. To any other person, agency or organization at the request of the offender only upon receipt of a *Consent for Release of Alcohol and Drug Abuse Record Information* 050\_F15, or a *Consent for Release of Information (PPS 20)* 920\_F8 signed by the offender
3. Without an offender's written consent only in accordance with state and federal statutes and Operating Procedure 050.1, *Offender Records Management*
4. Reasonable charges should be made for such copies in accordance with this operating procedure

**F. Release of Medical, Dental, and Mental Health Records**

1. In accordance with this operating procedure, Operating Procedure 701.3, *Health Records*, and the Code of Virginia, offenders may request copies of their medical, dental, and mental health records. Pursuant to COV §8.01-413 (B), *Certain copies of health care provider's records...* and COV §32.1-127.1:03 (E), *Health records privacy*, copies of such records will be provided within 15 days of the request, provided the offender pays for such copies in advance of receiving them.
2. Copies of Medical and Dental Records should be provided:
  - a. To the offender, an attorney or physician, agency or organization, or other person at the request of the offender upon receipt of a properly completed and signed *Consent for Release of Confidential Health and/or Mental Health Information* 701\_F8.
    - i. The *Consent* should be notarized unless signed by the offender in the presence of staff who signs as a witness to the signature.
    - ii. If an offender is no longer incarcerated; see *Consent for Release of Confidential Health and/or Mental Health Information (Inactive Offender Only)* 701\_F11
  - b. To a medical or mental health facility and persons or other entities, in accordance with COV §53.1-40.10, *Exchange of medical and mental health information and records*, without offender written consent
  - c. To any criminal justice agency, without offender consent upon request
3. Copies of Mental Health Records should be provided under the same conditions as Medical and Dental Records, except for records specifically noted by a treating physician or clinical psychologist that the offender's review of these records would be harmful to the offender's health or well-being. Such



Mental Health Records will not be provided to the offender or anyone authorized to act on his behalf, except as provided for by COV §8.01-413 (B). *Certain copies of health care provider's records or papers of patient admissible; right of patient, his attorney and authorized insurer to copies of such records or papers; subpoena; damages, costs and attorney fees.*

- a. Any decision to deny the request for copies of records based on such statement may be reviewed by another physician or clinical psychologist, in accordance with COV §32.1-127.1:03 (F), *Health records privacy*.
  - b. The offender is responsible for any costs or fees associated with such review; the DOC bears no responsibility for such costs.
4. Reasonable charges should be made for such copies in accordance with this operating procedure. Per COV §53.1-28, *Authority to fix discharge date; improper release; warrant, arrest and hearing*, any offender may obtain a copy of their medical records at no cost to the offender within 30 days of release so long as the offender requests a copy of the records at least 60 days prior to the release date.

G. Release of Pre-sentence, Post Sentence, and Progress Reports:

1. Pre-sentence Investigations (PSI) and Post Sentence Reports (PSR) may be released by the DOC as needed for an offender referred to another agency or program for the continuation of treatment or supervision.
2. Progress Reports may be released only under the same conditions as Criminal History Record Information.

H. Per COV §9.1-133, *Certain information not subject to review or correction*, the following information is not subject to review or correction by offenders

1. Investigative information not connected with a criminal prosecution or litigation including investigations of rule infractions in correctional facilities, and background checks for security clearances.
2. Correctional information about an offender including counselor reports, diagnostic summaries, and other sensitive information not explicitly classified as Criminal History Record Information.

I. Release of Offender Records to the Public and Media

1. The *Virginia Freedom of Information Act*, *Privacy Protection Act*, and other laws govern the dissemination and the confidentiality of information maintained by state agencies. These regulations have a direct effect on the type of information about offenders that can be released to the public and the media. When responding to requests for information about individual offenders, staff may release only the following information to the public; unless the offender has an undisclosed location code:
  - The offender's projected parole eligibility, mandatory parole, and/or good time release dates at the time of the inquiry.
  - The offender's incarceration or parole status and location
  - A confined offender's mailing address for purposes of correspondence; see Operating Procedure 050.1, *Offender Records Management*, for limitations
  - Information concerning an offender's visiting status and privileges. Copies of visiting lists, phone lists, and correspondence logs are not to be released.
  - Release of information concerning apprehension, arrest, prosecution, or adjudication of charges against an offender and information in the event of an offender escape or death should be handled in accordance with Operating Procedure 025.1, *Public Access to DOC Public Records*.
  - Release of offender record information to the media should be handled in accordance with Operating Procedure 022.1, *News Media Relations*, and Operating Procedure 025.1, *Public Access to DOC Public Records*.
2. All requests for offender record information made under the *Virginia Freedom of Information Act* will be denied, citing COV §2.2-3706 (B)(4), *Disclosure of law-enforcement and criminal records; limitations*, which excludes "all records of persons imprisoned in penal institutions in the



Commonwealth provided such records relate to the imprisonment.”

3. Release of information contained in offender Medical, Dental, and Mental Health Records is further excluded under COV §2.2-3705.5, *Exclusions to application of chapter; health and social services records*.

J. Copying charges for release of information will be in accordance with Operating Procedure 050.1, *Offender Records Management*, which will apply if the charges change from those listed in this operating procedure.

1. Copying charges should not apply to information provided to Organizational Units, other Virginia state agencies, other law enforcement agencies, or to entities where the offender is being referred by DOC for services or treatment.
2. Copying charges will apply to all requests by offenders and the public for offender record information.
  - a. Copying charges should be collected before providing the requested information. Charges may be billed with the delivery of records at the discretion of the Organizational Unit Head.
  - b. The charges will be the sum of:
    - i. A charge for each page or copy
    - ii. The actual cost of postage or shipping, when the copies are sent through the U.S. Postal Service or private mail carrier.
    - iii. Reasonable costs, not to exceed the actual cost of labor for additional research required to locate and copy records that are not readily available for copying, such as records that are archived or are maintained on microfilm or computer databases.
    - iv. Per page copying charges are based on memoranda issued by the Chief of Corrections Operations.
  - c. The requester should be advised of the fees in writing using the *Sample Copying Charge Letter*, as a guide; see Operating Procedure 050.1, *Offender Records Management*.
  - d. Upon receipt of the check or money order, made payable to the “Virginia Department of Corrections”, the copies should be provided and the check/money order deposited in accordance with financial systems procedures.

K. Appeal of Request Denials:

1. Institutional offenders may appeal denial of information access through the *Offender Grievance Procedure*.
2. Community Corrections offenders may appeal denial of information access through the Chief P&P Officer or Facility Unit Head.

III. Amendment

- A. An offender who becomes aware of erroneous information in their official record may request to the Facility Unit Head that the erroneous information be expunged from the record.
- B. If the information is confirmed to be erroneous, the Facility Unit Head will submit a request to have the erroneous information expunged from offender’s official record.
  1. Institutions will use *Amendment of Offender Record Material* 050\_F13, to submit amendment requests to the Manager, Central Criminal Records or designee.
  2. Community Corrections Facilities will submit amendment requests to the Regional Administrator.
- C. Institutional offenders may appeal amendment decisions through the *Offender Grievance Procedure*.
- D. Community Corrections offenders may appeal amendment decisions through the Facility Unit Head.

IV. Offender Name Changes

- A. Names on offender records

1. VACORIS name - the offender's legal name, usually the birth name or a legal name change
  2. Term name - the name shown on the offender's current sentencing order(s)
- B. In accordance with the Code of Virginia and case law, offenders are permitted to legally change their names.
- C. Offenders will be permitted to use a legal name change, in addition to the name under which they were sentenced in accordance with the following provisions:
1. It is the offender's responsibility to provide documentation of the legal name change.
  2. The DOC is not compelled, for record keeping purposes, to change its files to reflect an offender's legal change of name as the term name unless the DOC receives a court order which amends the original sentencing order.
  3. Absent the above order, the DOC will acknowledge in the official record that the offender has had his name changed legally by recording it as the VACORIS name by virtue of an attested copy of the court order.
  4. All documents printed from VACORIS will use the VACORIS name, which should be the name the offender uses for DOC business and communication. The offender will be allowed to send or receive mail using either name, but the offender number should appear on all correspondence.
  5. Some Courts require that the offender applying for a name change provide a copy of Criminal History Record Information.
    - a. The offender may request a summary of felony conviction records by providing the documentation from the Court that confirms application for a name change and instructions from the Court to provide that information.
    - b. A *Sentence Summary* from VACORIS may be used for this purpose once payment of copying charges by the offender has been made in accordance with this operating procedure. The database should be researched and all DOC criminal history, including prior numbers for the offender, should be included.
    - c. Copy of the *Sentence Summary* should be sent directly to the Court, with a notation made in VACORIS indicating the request, the information provided and date it was sent.

## REFERENCES

42 U.S.C. §405, *Social Security Number Protection Act of 2010*

COV §2.2-3700 et seq., *Virginia Freedom of Information Act*

COV §2.2-3703, *Public bodies and records to which chapter inapplicable; voter registration and election records; access by persons incarcerated in a state, local, or federal correctional facility*

COV §2.2-3705.5, *Exclusions to application of chapter; health and social services records*

COV §2.2-3706, *Disclosure of law-enforcement and criminal records; limitations*

COV §8.01-413, *Certain copies of health care provider's records...*

COV §9.1-101, *Definitions*

COV §9.1-133, *Certain information not subject to review or correction*

COV §16.1-226 et seq., *Juvenile and Domestic Relations District Court Law*

COV §19.2-299, *Investigations and reports by probation officers in certain cases*

COV §19.2-389, *Dissemination of criminal history record information*

COV §32.1-127.1:03, *Health records privacy*

COV §53.1-28, *Authority to fix discharge date; improper release; warrant, arrest and hearing*

COV §53.1-40.10, *Exchange of medical and mental health information and records*

COV §64.2-1600 et seq., *Virginia Uniform Power of Attorney Act*



Operating Procedure 022.1, *News Media Relations*

Operating Procedure 025.1, *Public Access to DOC Public Records*

Operating Procedure 050.1, *Offender Records Management*

Operating Procedure 701.3, *Health Records*

## **ATTACHMENTS**

None

## **FORM CITATIONS**

*Amendment of Offender Record Material* 050\_F13

*Consent for Release of Information* 050\_F14

*Consent for Release of Alcohol and Drug Abuse Record Information* 050\_F15

*Request for Records (Inactive Offender Only)* 050\_F17

*Consent for Release of Confidential Health and/or Mental Health Information* 701\_F8

*Consent for Release of Confidential Health and/or Mental Health Information (Inactive Offender Only)*  
701\_F11

*Consent for Release of Information (PPS 20)* 920\_F8